

SN. 10/661,825

ATTORNEY DOCKET NO. KIOI:036

Remarks

Claims 1-3 now remain pending in this application for which applicant seeks reconsideration.

Amendment

Claim 3 has been amended in order to overcome the rejection under 35 U.S.C. 112, second paragraph. The amendment has made the claim less confusing and has more clearly specified the claim limitations. Accordingly, applicants respectfully request that claim 3 be entered in condition for allowance.

Art Rejection

Claims 1-2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Inamura (US 6,800,044) in view of Miyagawa et al. (6,547,694.) The examiner contends that Inamura discloses a speed change control apparatus of a CVT comprising primary and secondary pulleys, and goes on to contend that Inamura contains the various elements of the present invention except for the line pressure and ratio comparisons of the present invention, which the examiner uses Miyagawa to show.

Applicants note that Inamura does not read on the present invention as the examiner describes. On page 3 of the Office Action, the examiner contends that Inamura has "an engine speed detecting means (42) that detects the rotational speed of the engine." This is not true. Inamura actually consists of a "vehicle velocity detecting means 42 for detecting the velocity of the vehicle" (col. 5, line 28), which is not the same as the "engine speed detecting means for detecting a revolution speed of the engine" of claim 1 of the present invention. Accordingly, the examiner's interpretation of the reference is incorrect. For this reason alone, applicants submit that the rejection is improper and should be withdrawn.

Applicants note that the detection of engine speed is critical in the present invention because the engine speed is used to calculate the line pressure as described in claim 1. The examiner states "Inamura inherently discloses the control unit calculating the value of the line pressure according to the oil amount balance of the oil pump relative to the engine speed and controlling the line pressure according to the calculated line pressure...". Applicants note that an argument of "inherency" is not proper in the context of a rejection based on obviousness. What might be "inherent" in a reference is only relevant with respect to a rejection based on anticipation. Moreover, there is absolutely nothing in Inamura that would suggest that the line

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pressure be calculated base on engine speed, because Inamura fails to include any mechanism for engine speed detection.

The examiner cites Miyagawa in order to show a control unit that compares the actual transmission ratios and controls the line pressure depending on the completion of the shift and based on the signal of the inhibitor switch. However, even if it were obvious to modify the control unit of Inamura as suggested by the examiner, the combination still would not yield the claimed invention. Applicants submit that Miyagawa fails to overcome the basic deficiency of Inamura, namely, calculating a line pressure according the oil amount balance of the oil pump relative to the engine speed.

Although the examiner did not include claim 3 in the rejection, the examiner further contends that claim 3 is "inherently disclosed by Inamura [in] view of Miyagawa et al. (6,547,694) because the secondary pressure is inherently controlled according [to] the calculated value of the secondary pressure" (page 4, paragraph 2.) Applicants submit, however, that no where does the examiner or Inamura suggest multiplying a value of the specified secondary pressure by a ratio of the line pressure according to the oil amount balance of said oil pump to the specified line pressure, and using this calculated value to control the secondary pressure.

Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Inamura in view of Miyagawa et al. as applied previously, and in further view of Murano et al. (JP 401153851.) Murano discloses an oil temperature sensor that detects a temperature in the CVT. Applicants submit that Murano does not overcome the deficiencies of the primary references as discussed above.

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Conclusion

Applicants submit that claims 1-3 are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicants urge the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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